

APPEAL NO. 041256
FILED JULY 20, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on May 6, 2004. The hearing officer determined that the respondent's (claimant) compensable injury of _____, extends to and includes carpal tunnel syndrome (CTS) in both wrists and that the claimant had disability from May 13, 2002, through September 23, 2003.

The appellant (carrier) appealed, basically on sufficiency of the evidence grounds citing various medical reports. The file does not contain a response from the claimant.

DECISION

Affirmed.

On _____, the claimant slipped and fell forward on a wet floor. In attempting to get up she fell again. The carrier accepted a compensable bilateral hands and bilateral cubital tunnel syndrome (BCuTS) injury. The claimant continued working and did not see a doctor until she saw Dr. S on September 7, 1999. Dr. S had apparently treated the claimant earlier for a shoulder injury and the claimant had apparently had bilateral carpal tunnel syndrome (BCTS) release surgery in the 1980's.

There is substantial medical evidence in the record including nerve conduction velocity (NCV) testing. Although Dr. S's initial report of September 7, 1999, indicates "bilateral hand pain" and "tingly and numbness in all the fingers at night," comments that her symptoms are compatible with CTS, Dr. S appeared to focus on the BCuTS. The hearing officer comments on the three NCV studies and how they have been interpreted. The carrier points out that in April 2000 Tinel's and Phalen's testing was negative. In a report dated March 27, 2003, Dr. S said he had reviewed the NCV studies and (the hearing officer comments in "a sort of revelation") concluded that the claimant's problem "is probably related to [CTS]." Much of the CCH dealt with interpreting and emphasizing the various medical reports.

On the disability issue the claimant continued to work until May 13, 2002, when she had CuTS surgery. The claimant's employer had gone out of business a few days prior to May 13, 2002, and the carrier's argument is that the claimant's unemployment (inability to obtain and retain employment) was due to the noncompensable BCTS and the fact that the employer had gone out of business. There was conflicting medical evidence which could be interpreted in different ways. It is the hearing officer, as the fact finder, who is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the fact finder, the hearing officer was charged with the responsibility of resolving the conflicts and inconsistencies in the evidence and deciding what facts the evidence had established. This is equally true of medical evidence. Texas Employers

Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The hearing officer was acting within his province as the fact finder in resolving the conflicts and inconsistencies in the evidence in favor of the claimant. Nothing in our review of the record reveals that the challenged determinations are so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). Accordingly, no sound basis exists for us to disturb those determinations on appeal.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **OLD REPUBLIC INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
701 BRAZOS STREET, SUITE 1050
AUSTIN, TEXAS 78701.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Veronica L. Ruberto
Appeals Judge